

Hurricanes Maria and Irma devastated Puerto Rico, destroying the island's infrastructure already in dire need of repair. Despite being a US territory and Puerto Ricans being US citizens, the recovery efforts have been anything but smooth. Who will pay to help with recovery at this difficult time?

A month after the storm, running water and electricity still haven't been restored on [Puerto Rico](#). Most of the grocery stores have reopened, but not always with food on the shelves. Homes have been destroyed, and 60,000 are without roofs. Roads have been washed away, and helicopter is now the only way to travel to some remote parts. Surrounding islands such as the [US and British Virgin Islands were also caught up in the hurricanes](#) with substantial damages.

Originally from Glasgow and based in Tortola, British Virgin Islands (BVI), Nicole Toppin CA (Senior Associate at Deloitte, and Senior with Zolfo Cooper (BVI) Ltd, a financial advisory firm), was evacuated to Puerto Rico and then Bermuda in [the wake of the hurricanes](#).

Nicole explained the situation as it was unfolding: "I've been relocated, as with most of the legal firms, and evacuated to other jurisdictions to work remotely for the time being until everything is restored. The BVI Financial Services Commission has been working tirelessly to get everything up and running to where it was before.

"A lot of the buildings were affected so badly. The territory has had to deal with a lot of adversity and the weather on top of that has caused other difficulties with the resources and how companies have been able to actually work."

What makes this Caribbean recovery particularly challenging is that Puerto Rico recently filed for bankruptcy under the [Puerto Rico Oversight, Management, and Economic Stability Act \(PROMESA\)](#), which provides rules for US territories to reduce debt outside of bankruptcy. Puerto Rico has about \$74 billion in bond debt and \$49 billion in unfunded pension obligations that it can't pay.

The money to rebuild the island is, and will be, an issue going forward. After the hurricane, President Trump had said Puerto Rico's debt would be wiped out, but he doesn't have the authority to do so. Regardless, bond prices tumbled to record lows after he made the statement.

Meanwhile, the House passed a \$36.5 billion aid package for hurricanes and wild fires on 12 October that will benefit Puerto Rico, but this package has yet to be passed by Senate. Plus, it's nowhere near what's needed for the estimated [\\$95 billion](#) worth of damage on the island where about 3.4 million Americans live (of which, about 44% live in poverty).

There are many moving parts to the recovery, and the island's struggling financial situation contributes to the problem.

Bankruptcy and Puerto Rico

While [municipalities](#) can declare bankruptcy voluntarily in certain states, as some have, states and US territories cannot reorganize their debt under the bankruptcy code.

Congress enacted PROMESA in 2016 to avoid a humanitarian crisis due to its \$123 billion of debt that would otherwise delay infrastructure and public health projects, cause government workers to forgo pension money, and prevent a human capital flight of residents moving to the mainland.

Under PROMESA, Congress appointed an oversight board comprised of legal and financial experts to try and develop a debt adjustment plan. Since they weren't able to reorganize the debt outside of court, the board filed a bankruptcy-like proceeding under PROMESA. The board can override Puerto Rico laws and elected officials as it has immunity for its action, but there have been [clashes between the board and governor of Puerto Rico](#).

"You have a tremendous amount of bond investors [with] billions of dollars of bond debt and retirement funds invested in Puerto Rico bonds, and investment companies that have tremendous amounts invested," said Joseph Coleman, Director at Kane Russell Coleman Logan PC. "Now there's a question of when those will be paid and the ripple effect throughout the US and world is significant."

Puerto Rico isn't the only territory or state with a poor financial condition, and if PROMESA does succeed, it may be extended to other jurisdictions and serve as a precedent for states to file bankruptcy, said Carlos Hernandez-Vivoni, Esq., Bankruptcy Litigation Attorney at Buckley Madole, PC.

Business Environment

Living in Puerto Rico can be desirable from a financial perspective, and businesses do have a tax exemption from income originated from US territories. But, "if you can't attract the right talent, that advantage goes unused," said Ron D'Vari, Chairman, Chief Investment Officer & Co-Founder of NewOak Capital.

Many of Puerto Rico's issues have to do with a government system that isn't set up to attract the level of business required to run the economy. To attract a labour force, an area needs a good education system, a good healthcare system, and infrastructure like roads, utilities and sufficient energy resources. Puerto Rico's infrastructure was problematic prior to the hurricanes, and actively has to compete with other cities looking to attract business.

"There's a lot that goes into an industry wanting to move," said Ron. "You have to attract the entire industry too - you need the ecosystem that supports that."

US Territory Status and elements that hamper recovery

Puerto Rico has been a territory for 118 years, with a local self-government established in 1952. The territory wants more say in its governance, and there's a movement for statehood, with 23% of Puerto Ricans voting in the last referendum held on June 11, 2017 and 97% voting for statehood. Ultimately though, the decision is up to Congress to pass a statute that would begin the process to change Puerto Rico's status.

While Puerto Ricans are natural born US citizens who can move freely to the mainland (as Americans can move to Puerto Rico), the island is not on equal footing as the states and District of Columbia, who also voted to become the 51st state.

Puerto Rico has restrictions because the government can't make its own decisions, said Carlos. The island is still under the sovereignty of the US and can't bargain for itself: "[Puerto Ricans] don't have actual practical political representation in the body that governs the body, which is Congress - Congress has all the authority to make any laws pertaining to a territory. Even though [Puerto Rico's] a commonwealth, that didn't change the representation."

For example, the [Jones Act](#) hampered the hurricane recovery efforts until it was temporarily repealed. This archaic rule from the 1920s requires goods shipped between US ports be on US owned and operated vessels - foreign ships entering the port have to pay punitive tariffs, fees and taxes that are passed on to consumers.

This obscure rule from the 1920s increases costs for imports (even from the mainland). While temporarily waived after the hurricane, Puerto Rico has to rely on Congress to repeal the Act. Also, Puerto Rico can't negotiate its own trade agreements with neighbouring Caribbean countries - only Congress and the President can do that.

Puerto Rico has a [resident commissioner](#) in Congress who can propose bills and join in committee discussions, but can't vote or properly advocate for the island. Americans living in Puerto Rico don't vote in the presidential election - there are no electoral votes at stake.

At the same time however, they are eligible for the same benefits as other US citizens, but these benefits aren't the same as the mainland's because of Puerto Rico's status as a territory, said Carlos.

The road to recovery will be long and necessitates more than just aid packages to cope with the aftermath of a natural disaster.

By [Andrea Murad](#)